

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DAVID C. WALLS, individually and as
Administrator of the ESTATE OF DAVID R.
WALLS,

Plaintiff,

vs.

FTS INTERNATIONAL, INC., FRAC TECH,
SERVICES, LLC, FRAC TECH
INTERNATIONAL, LLC

Defendants.

CIVIL DIVISION

Case No. GD 15-018473

COMPLAINT IN CIVIL ACTION

Filed on behalf of Plaintiff:

DAVID C. WALLS, individually and as
Administrator of the ESTATE OF DAVID
R. WALLS

Counsel of Record for this Party:

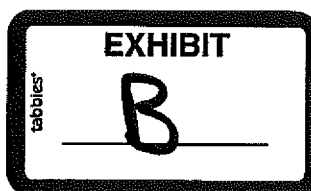
Jeffrey D. Ries, Esquire
Pa. I.D. #311901

Jennifer C. Bittel, Esquire
Pa. I.D. #315257

McGRAIL & ASSOCIATES, LLC
1714 Lincoln Way
White Oak, PA 15131

412-664-4433

JURY TRIAL DEMANDED



IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DAVID C. WALLS, individually and as	:	CIVIL DIVISION
Administrator of the ESTATE OF DAVID,	:	
R. WALLS,	:	Case No. GD 15-018473
	:	
Plaintiff,	:	
vs.	:	
	:	
FTS INTERNATIONAL, INC., FRAC TECH,	:	
SERVICES, LLC, FRAC TECH	:	
INTERNATIONAL, LLC,	:	
	:	
Defendants.	:	

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this document is served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in this document or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Lawyer Referral Service
Allegheny County Bar Association
920 City County Building
Pittsburgh, PA 15219
(412) 261-0518

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DAVID C. WALLS, individually and as	:	CIVIL DIVISION
Administrator of the ESTATE OF DAVID,	:	
R. WALLS,	:	Case No. GD 15-018473
Plaintiff,	:	
	:	
vs.	:	
	:	
FTS INTERNATIONAL, INC., FRAC TECH,	:	
SERVICES, LLC, FRAC TECH	:	
INTERNATIONAL, LLC,	:	
	:	
Defendants.	:	

COMPLAINT IN CIVIL ACTION

AND NOW, comes the Plaintiff, David C. Walls, individually and as Administrator of the Estate of David R. Walls, by and through his attorneys, Jeffrey D. Ries, Esquire, Jennifer C. Bittel, Esquire, and McGrail & Associates, LLC, and files the following Complaint in Civil Action:

PARTIES

1. The Plaintiff, David C. Walls ("Plaintiff") is an adult individual who resides at 1601 Lovedale Rd., Elizabeth, Allegheny County, Pennsylvania 15037. Plaintiff is the Administrator of the Estate of his deceased son, David R. Walls, ("Mr. Walls") at Allegheny County Orphans' Court Case I.D. number 021403992.

2. The Defendant, FTS International, Inc. ("FTS"), is a corporation with its registered office located at 777 Main Street, Suite 3000, Fort Worth, Texas 76102.

3. The Defendant, Frac Tech Services, LLC ("Frac Tech Services"), is a corporation with its registered office located at 777 Main Street, Suite 3000, Fort Worth, Texas 76102.

4. The Defendant, Frac Tech International, LLC (“Frac Tech Int’l”), is a corporation with its registered office located at 777 Main Street, Suite 3000, Fort Worth, Texas 76102.

JURISDICTION AND VENUE

5. Under 42 Pa Cons. State §931, the Court of Common Pleas has exclusive jurisdiction over the subject matter that is more fully described herein.

6. To the extent the Defendants own and operate out-of-county or out-of-state corporations, pursuant to 42 Pa.C.S.A. §5322, the Court of Common Pleas has jurisdiction over Defendants as they have performed work within Allegheny County, Pennsylvania for which they received pecuniary gain.

FACTUAL BACKGROUND

7. Mr. Walls’ accident (“the accident”) upon which this civil action is based occurred on or about June 24, 2014 while Mr. Walls was operating a commercial truck owned by FTS International Services, LLC. Mr. Walls was hauling a pumping station on a trailer which was also owned by FTS International, LLC.

8. At all relevant times hereto, Mr. Walls was an employee of FTS International Services, LLC.

9. In his capacity driving a truck owned by FTS International Services, Mr. Walls was a licensed commercial driver’s license (“CDL”) truck driver.

10. A coworker noticed that Mr. Walls was visibly tired before leaving Wintersville, Ohio to head to Eighty Four, Pennsylvania and immediately alerted the supervisors.

11. After being required to operate his vehicle while being visibly tired, Mr. Walls fell asleep behind the wheel and crashed into trees and a telephone pole, turning his truck over onto the driver’s side.

12. Plaintiff believes and therefore avers that, despite the warning from another employee, neither supervisor took the steps to ensure Mr. Walls was able to safely operate his truck.

13. Plaintiff believes and avers that Defendants, jointly and severally, ignored the safety of Mr. Walls and other vehicles on the road.

14. As a result of the accident which was solely, directly, and proximately caused by the grossly negligent conduct of the Defendants named herein, acting jointly and severally, Mr. Walls lost his life on June 24, 2014 at the age of twenty-six (26).

15. Based on information and belief, Defendants engaged in a course of conduct of forcing drivers onto the road without requisite rest.

16. Defendants' conduct was purposeful in attempting to maximize profits and minimizing delay.

17. As such, Defendants acted in bad faith, and acted with reckless and wanton regard to the safety and wellbeing of Mr. Walls, and acted with knowledge that the result of his driving without requisite rest would result in death, but undertook this risk despite this knowledge.

COUNT I – WRONGFUL DEATH

David C. Walls as Administrator of the Estate of David R. Walls v. FTS International, Inc., Frac Tech, Services, LLC, and Frac Tech International, LLC

18. Paragraphs 1 through 17 of the Complaint are incorporated herein by reference.

19. Plaintiff, David C. Walls, Administrator of the Estate of David R. Walls, brings this action on behalf of the beneficiaries under and by virtue of the Wrongful Death Act, 42 Pa. C.S.A. §8301, and the applicable Rules of Civil Procedure and decisional law.

20. Mr. Walls is survived by the following persons who are beneficiaries under the Wrongful Death Act:

- a) David C. Walls (Father)
- b) Roberta Hoover (Mother)

21. As a direct and proximate result of the tortious and grossly negligent conduct of Defendants FTS International, Inc., Frac Tech, Services, LLC, and Frac Tech International, LLC, as set forth herein, Mr. Walls died on June 24, 2014 after enduring excruciating pain and suffering.

22. Plaintiff, David C. Walls, Administrator of the Estate of David R. Walls, claims the full measure of damages recoverable under the Wrongful Death Act, including, but not limited to, damages for medical, funeral, and burial expenses and expenses of administration necessitated by reason of injuries causing decedent's death, damages for monetary support that decedent would have provided to the beneficiaries during decedent's lifetime, and damages for services provided which could have been expected to have been performed in the future by decedent.

WHEREFORE, Plaintiff, David C. Walls, claims of the Defendants FTS International, Inc., Frac Tech, Services, LLC, and Frac Tech International, LLC, damages in an amount in excess of the sum of \$35,000, plus interest and costs of suit and in excess of the prevailing arbitration limits under the Wrongful Death Act, exclusive of delay damages and costs.

COUNT II – SURVIVAL ACT

David C. Walls as Administrator of the Estate of David R. Walls v. FTS International, Inc., Frac Tech, Services, LLC, and Frac Tech International, LLC

23. Paragraphs 1 through 22 of the Complaint are incorporated herein by reference.

24. Plaintiff, David C. Walls, Administrator of the Estate of David R. Walls, brings this Survival Action on behalf of the Estate of David R. Walls and under and by virtue of 42 Pa. C.S.A. §8302, and the applicable Rules of Civil Procedure and decisional law.

25. The persons who are beneficiaries of the Estate of David R. Walls are:

- a) David C. Walls (Father)
- b) Roberta Hoover (Mother)

26. As a result of the tortious and grossly negligent conduct of the Defendants FTS International, Inc., Frac Tech, Services, LLC, and Frac Tech International, LLC, as set forth herein, Plaintiff David C. Walls' decedent was caused grave injuries and death resulting in the entitlement to damages by the beneficiaries under the Survival Act.

27. On behalf of the Survival Act beneficiaries, the Administrator claims all damages available under the Survival Act, including damages for loss of earning power and economic loss to decedent's estate, damages for medical expenses, damages for loss of life's pleasures, damages for all loss of income, retirement, and Social Security income as a result of decedent's death, damages for the pain, suffering and inconvenience endured by decedent prior to his death, including, but not limited to, physical pain and suffering, mental pain and suffering, and the fright and mental suffering attributed to the peril leading to decedent's death.

WHEREFORE, Plaintiff, David C. Walls, claims of the Defendants FTS International, Inc., Frac Tech, Services, LLC, and Frac Tech International, LLC, damages in an amount in excess of the sum of \$35,000, plus interest and costs of suit, and in excess of the prevailing arbitration limits under the Survival Act, exclusive of delay damages and costs.

COUNT III – NEGLIGENCE AND/OR GROSS NEGLIGENCE

**David C. Walls as Administrator of the Estate of David R. Walls v. FTS International, Inc.,
Frac Tech, Services, LLC, and Frac Tech International, LLC**

28. Paragraphs 1 through 27 of the Complaint are incorporated herein by reference.

29. The injuries and damages as described herein were caused solely by, and were the direct and proximate result of the negligence of, Defendants FTS International, Inc., Frac Tech, Services, LLC, and Frac Tech International, LLC, generally, by and through their Supervisors, and as set forth in the following particulars:

- a. In allowing Mr. Walls to operate a commercial vehicle while visibly tired and fatigued and after having worked a fourteen (14) hour day;
- b. By not providing Mr. Walls with a necessary break prior to driving while visibly fatigued and unable to operate a large commercial motor vehicle with trailer;
- c. By allowing Mr. Walls to operate a large vehicle with trailer while Mr. Walls was visibly tired and had worked a fourteen (14) hour day;
- d. In failing to follow employer protocol and/or procedure, along with any State and/or Federal regulations regarding truck drivers driving large commercial vehicles and machinery for excessive and consecutive hours without providing breaks and/or time for sleep for employees during long shifts;
- e. In failing to properly monitor and log Mr. Walls' driving times on the day of his death;
- f. In failing to require Mr. Walls to take a break, and/or have another driver or supervisor in the commercial vehicle with him so as to avoid the probability of an accident.

30. As a result of the accident, which was solely, directly, and proximately caused by the negligent conduct of the Defendants named herein and as set forth herein, David R. Walls died on June 24, 2014 after enduring excruciating pain and suffering.

31. The totality of the conduct on the part of the Defendants evidences a wanton, reckless, callous and total disregard for the safety and wellbeing of Mr. Walls and the public in general. This conduct was outrageous in nature, rendering Defendants liable for the assessment of punitive damages.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendants, jointly and severally, in an amount in excess of the jurisdictional limits of compulsory arbitration, together with interest and costs of suit, along with the assessment of punitive damages, and such other relief as the Court may deem appropriate.

JURY TRIAL IS DEMANDED

Respectfully Submitted,

MCGRAIL & ASSOCIATES, LLC

/s/ Jennifer C. Bittel, Esquire
Jennifer C. Bittel, Esquire
Jeffrey D. Ries, Esquire
Attorney for Plaintiff, David C. Walls

VERIFICATION

I, David C. Walls, hereby verify that the averments of fact contained in the foregoing Complaint in Civil Action are true and correct to the best of my knowledge, information and belief.

I understand that any false statements made herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: 6/1/2017

/s/ David C. Walls
David C. Walls

CERTIFICATE OF SERVICE

I, Jennifer C. Bittel, Esquire, certify that a true and correct copy of the within Complaint in Civil Action was delivered via U.S. First Class Mail to the following this 2nd day of June, 2017.

Frac Tech Services, LLC
777 Main Street
Suite 3000
Fort Worth, Texas 76102

Frac Tech International, LLC
777 Main Street
Suite 3000
Fort Worth, Texas 76102

FTS International, Inc.
777 Main Street
Suite 3000
Fort Worth, Texas 76102

McGrail & Associates, LLC

/s/ Jennifer C. Bittel, Esquire
Jennifer C. Bittel, Esquire
Attorney for Plaintiff